

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-31-9-8 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. No tax or fee, except
- 5 as provided in this article, shall be assessed or collected from a permit
- 6 holder by a political subdivision having the power to assess or collect
- 7 a tax or fee. This section does not apply to **fees imposed under**
- 8 **IC 36-13** or real or personal property taxes imposed by a local taxing
- 9 unit."
- 10 Page 254, between lines 27 and 28, begin a new paragraph and
- 11 insert:
- 12 "SECTION 278. IC 36-13 IS ADDED TO THE INDIANA CODE
- 13 AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2005]:
- 15 **ARTICLE 13. PUBLIC SERVICES USER FEES**
- 16 **Chapter 1. Application**
- 17 **Sec. 1. This article applies in a county only if the county fiscal**
- 18 **body adopts an ordinance to apply this article in the county.**
- 19 **Sec. 2. This article applies to the owner of each building or other**
- 20 **real property improvement subject to assessment under IC 6-1.1-4.**
- 21 **Sec. 3. (a) Except as provided in subsection (b), a fee imposed**
- 22 **under this article applies to all property referred to in section 2 of**
- 23 **this chapter that is subject to assessment under IC 6-1.1-4,**
- 24 **regardless of whether the property is exempt from ad valorem**
- 25 **property taxes.**

(b) A fee imposed under this article does not apply to property referred to in section 2 of this chapter that is:

- (1) exempt from ad valorem property taxes; and
- (2) owned by a church or religious society.

#### **Chapter 2. Imposition and Distribution**

**Sec. 1. Fees imposed under this article are treated as ad valorem property taxes for the purpose of distributions under the following:**

- (1) IC 6-1.1-21.
- (2) IC 6-3.5.
- (3) IC 6-5.5.
- (4) IC 6-6-5.
- (5) Any other law that computes a distribution based on the assessed value of tangible property or on the property tax levy imposed.

**Sec. 2. The department of local government finance shall provide the information necessary for the department of state revenue and county auditors to make the distributions described in section 1 of this chapter.**

**Sec. 3. Fees imposed under this article shall be billed and collected in the same manner and at the same time that property taxes are billed and collected.**

**Sec. 4. The county auditor shall distribute to a political subdivision in which a property subject to the fee imposed under this article is located the part of the fee collected with respect to the property that bears the same proportion to the total amount of the fee collected with respect to the property that the tax rate imposed by the political subdivision bears to the total property tax rate in the taxing district in which the property is located.**

**Sec. 5. The maximum property tax levy that a political subdivision may impose for a budget year under IC 6-1.1-18.5 or IC 6-1.1-19 is reduced by the amount of fees imposed by the political subdivision under this article for the budget year.**

**Sec. 6. A political subdivision may use revenue from fee collections in the same manner that the political subdivision uses revenue from property tax collections.**

#### **Chapter 3. Fees**

**Sec. 1. Fees imposed by a county under this article apply to the owner of each building or other real property improvement in the county subject to assessment under IC 6-1.1-4.**

**Sec. 2. The fees imposed under this article may be determined based on the following:**

- (1) A flat charge for each building or other real property improvement.
- (2) The amount of public services used.
- (3) Whether the county is required to purchase or lease special facilities or equipment to deliver public services to the

property.

(4) A combination of the factors set forth in subdivisions (1) through (3) or other factors that the county fiscal body determines is necessary to establish just and equitable fees.

Sec. 3. The fees imposed under this article do not have to be uniform throughout the county or for all users of public services. The county fiscal body may exercise reasonable discretion in:

(1) adopting different schedules of fees; or

(2) making classifications in schedules of fees:

(A) based on variations in the costs of furnishing the services, including capital expenditures required, to various classes of users of public services or to various locations in the county; or

(B) where there are variations in the number of users in various locations in the county.

Sec. 4. If public services will not be provided until after a capital improvement is completed, a county may bill and collect fees under this article for the services to be provided after the contract for construction of the capital improvement has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the capital improvement.

Sec. 5. Unless the county fiscal body finds and directs otherwise, public services are considered to benefit every building or other real property improvement in the county. The fees imposed under this article shall be billed and collected accordingly.

Sec. 6. (a) The county fiscal body may, by ordinance, establish just and equitable fees for the use of public services provided in the county.

(b) The county fiscal body may periodically change and readjust the fees as provided in this article.

Sec. 7. The initial fees may be established under section 6 of this chapter only after a public hearing at which all:

(1) the property owners in the county; and

(2) others interested;

have an opportunity to be heard concerning the proposed fees.

Sec. 8. After introduction of the ordinance initially establishing fees but before the ordinance is finally adopted under section 6 of this chapter, notice of the hearing setting forth the proposed schedule of fees must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the county. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

Sec. 9. (a) The ordinance establishing the initial fees under section 6 of this chapter, either as:

- (1) originally introduced; or
  - (2) modified and amended;
- must be passed and put into effect after the hearing.
- (b) A copy of the schedule of the fees established must be:
    - (1) kept on file in the office of the county auditor; and
    - (2) open to public inspection.

Sec. 10. (a) The fees established for a class of users of property served shall be extended after the fees are established to cover any additional users of property served that are in the same class without the necessity of hearing or notice.

(b) A change or readjustment of fees imposed under this article may be made in the same manner as the fees were originally established.

#### Chapter 4. Liens for Fees

Sec. 1. The fees made, assessed, or established under this article against a building or other real property improvement in the county is a lien against the building or other real property improvement.

Sec. 2. Except as provided in sections 5 and 6 of this chapter, a lien attaches under section 1 of this chapter at the time of the recording of the list prepared under IC 36-13-5-2 in the county recorder's office as provided in IC 36-13-5. The lien:

- (1) is superior to and takes precedence over all other liens except the lien for taxes; and
- (2) shall be enforced under this article.

Sec. 3. If fees are not paid by the due date, the fees become delinquent and a penalty of ten percent (10%) of the amount of the fees attaches to the fees. The county may recover:

- (1) the amount due;
- (2) the penalty; and
- (3) reasonable attorney's fees;

in a civil action in the name of the county.

Sec. 4. Fees imposed under this article and not paid by the due date, together with the penalty, are collectible in the manner provided by this article.

Sec. 5. (a) A fee imposed under this article is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the county who is charged with the collection of the fee shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received before one hundred eighty (180) days after the date of the notice have

1 elapsed, the amount due may be expensed as a bad debt loss.

2       **Sec. 6. (a)** This section applies whenever a property owner has  
3 notified the county by certified mail with return receipt requested  
4 of the address to which the owner's notice is to be sent.

5       **(b)** A lien does not attach under this article against a building or  
6 other real property improvement occupied by someone other than  
7 the owner unless the officer of the county who is charged with the  
8 collection of fees notifies the owner of the property after the fees  
9 have become sixty (60) days delinquent.

10       **Sec. 7. (a)** The county shall release:

11           (1) liens filed with the county recorder after the recorded date  
12 of conveyance of the property; and

13           (2) delinquent fees incurred by the seller;  
14 on receipt of a verified demand in writing from the purchaser.

15       **(b)** A demand referred to in subsection (a) must state the  
16 following:

17           (1) That the delinquent fees were not incurred by the  
18 purchaser as a user, lessee, or previous owner.

19           (2) That the purchaser has not been paid by the seller for the  
20 delinquent fees.

## 21       **Chapter 5. Enforcement of Delinquencies**

22       **Sec. 1.** This chapter applies only to fees or penalties under this  
23 article that have been due and unpaid for at least ninety (90) days.

24       **Sec. 2.** The county treasurer shall enforce the payment of fees  
25 and penalties imposed under this article. The officer shall, not more  
26 than two (2) times in a year, prepare a list of the delinquent fees,  
27 including the amount of the penalty, that are enforceable under this  
28 chapter. The list must include the following:

29           (1) The name of each owner of each building or other real  
30 property improvement on which the fees have become  
31 delinquent.

32           (2) The description of the property as shown by the records of  
33 the office of the county auditor.

34           (3) The amount of the fees, together with the amount of the  
35 penalty.

36       **Sec. 3. (a)** The county treasurer shall record a copy of the list  
37 prepared under section 2 of this chapter in the office of the county  
38 recorder.

39       **(b)** The county recorder shall charge a fee for recording the list  
40 in accordance with the fee schedule established in IC 36-2-7-10.

41       **(c)** After recording the list, the county treasurer shall mail to  
42 each property owner on the list a notice stating that a lien against  
43 the owner's property has been recorded.

44       **(d)** This subsection applies only to a county that does not contain  
45 a consolidated city. A service charge of five dollars (\$5), which is in  
46 addition to the recording fee charged under this section and section

6 of this chapter, shall be added to each delinquent fee that is recorded.

Sec. 4. (a) This section applies only to a county containing a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the county treasurer shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

(1) Liens recorded on or after August 1 of the preceding year and before February 1 of the current year shall be certified before March 1 of each year for collection in May of the same year.

(2) Liens recorded on or after February 1 of the current year and before August 1 of the current year shall be certified before September 1 of each year for collection in November of the same year.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list prepared under subsection (b).

Sec. 5. (a) This section applies only to a county that does not contain a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

(1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the county treasurer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list.

Sec. 6. (a) The county treasurer shall release a recorded lien when the:

(1) delinquent fees;

(2) penalties;

(3) service charges; and

(4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

Sec. 7. (a) This subsection applies to a county that does not contain a consolidated city. On receipt of the list under section 5 of this chapter, the county auditor shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent. The certification fee is in addition to all other applicable fees. The county auditor shall immediately enter on the tax duplicate for the municipality the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; and
- (5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) This subsection applies to a county having a consolidated city. On receipt of the list under section 4 of this chapter, the county auditor shall enter on the tax duplicate the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

that are due not later than the due date of the next installment of property taxes.

(c) The county treasurer shall include any unpaid charges for the:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

for each owner of each lot or parcel of property at the time the next cycle's property tax installment is billed.

Sec. 8. (a) This section does not apply to a county containing a consolidated city.

(b) After June 1 of each year, the county treasurer may not collect or accept:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; or
- (5) certification fees;

from property owners whose property has been certified to the county auditor.

Sec. 9. If a:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

Sec. 10. (a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

1           (1) fees;  
 2           (2) service charges; and  
 3           (3) penalties;  
 4       that have been collected.  
 5       (b) The county auditor shall:  
 6           (1) deduct the service charges and certification fees collected  
 7           by the county treasurer; and  
 8           (2) pay to the county treasurer the remaining fees and  
 9           penalties due the county.  
 10       (c) The county treasurer shall:  
 11           (1) retain the service charges and certification fees that have  
 12           been collected; and  
 13           (2) deposit the charges and fees in the county general fund.  
 14       Sec. 11. (a) This section applies to a:  
 15           (1) fee;  
 16           (2) penalty; or  
 17           (3) service charge;  
 18       that was not recorded before a recorded conveyance.

19       (b) The:  
 20           (1) fee;  
 21           (2) penalty; or  
 22           (3) service charge;  
 23       shall be removed from the tax roll for a purchaser who, in the  
 24       manner prescribed by IC 36-13-4-7, files a verified demand with  
 25       the county auditor.

#### 26       Chapter 6. Foreclosure of Liens

27       Sec. 1. A county may, as an additional or alternative remedy,  
 28       foreclose a lien under this article as a means of collection of fees,  
 29       including the penalty on the fees.

30       Sec. 2. (a) In all actions brought to foreclose liens under this  
 31       article, the county is entitled to recover the following:

- 32           (1) The amount of the fees.
- 33           (2) The penalty on the fees.
- 34           (3) Reasonable attorney's fees.

35       (b) The court shall order that the sale be made without relief  
 36       from valuation or appraisement statutes.

37       Sec. 3. Except as otherwise provided by this article, the following  
 38       apply in all actions to foreclose liens under this article:

- 39           (1) The laws concerning municipal public improvement
- 40           assessments.
- 41           (2) The rights, remedies, procedure, and relief granted the
- 42           parties to the action."

43       Page 261, between lines 20 and 21, begin a new paragraph and  
 44       insert:

45       "SECTION 291. [EFFECTIVE JULY 1, 2005] IC 36-13, as added  
 46       by this act, applies only to budget years beginning after December



- 1 **31, 2005."**
- 2 Renumber all SECTIONS consecutively.  
(Reference is to HB 1001 as printed January 18, 2006.)

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Representative Aguilera